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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,128	08/31/2001	Jonathan M. Traxler	082225.P5823	3008
8791	7590	11/17/2005	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			TANG, KAREN C	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/945,128		TRAXLER, JONATHAN M.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Karen C. Tang		2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 19-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/31/01 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/31/01</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

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- This action is responsive to the amendment and remarks file on 8/19/05.
- Newly entered claims 19-35 are presented for examination, Claims 1-18 are cancelled.
- The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19-35 are rejected under 35 U.S.C. 102(e) as being anticipated by  
Raymond et al hereinafter Raymond (US 6,108,697).

1. Referring to Claims 19 and 25, Raymond discloses a server, comprising: a connection to a computer communication network (refer to Col 5 and 6); a transmitter (downloading computer requesting/transmit a request, refer to Col 9) for broadcasting on the computer communication network a request to restore a server payload (downloading computer), after the server payload has been installed on the

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server, in response to detecting a need for restoring the server payload (it is inherent that the downloading computer must detecting the need to restore the payload/data, thus to start requesting, refer to Col 9 and Col 10);

a receiver for receiving a digital image of the server payload from a second server

(Examiner interprets the second computer as the second sever, refer to Col 6 and Col 9) connected to the computer communication network (refer to Col 5 and Col 9);

and restore logic for restoring the server payload from the received digital image (refer to Col 1, Col 6, Lines 55-67, Col 7, Col 8, and Col 9).

2. Referring to Claim 20, Raymond discloses: boot logic (agent, refer to Col 10 and Col 11) to respond to a boot signal (response, refer to Col 10) by broadcasting the request to restore the server payload (refer to Col 10).

3. Referring to Claim 21, Raymond discloses one or more operation buttons to allow a user to generate the boot signal (user interface, it is inherent that the user must've an operation buttons to allow user to generate a request, refer to Col 10 and Col 11).

4. Referring to Claim 22, Raymond discloses wherein the boot signal is generated remotely (refer to Col 10).

5. Referring to Claim 23, Raymond discloses wherein transmissions over the computer communication network are protocol (encoding, type of protocol, refer to Col 9, and 10).

6. Referring to Claim 24, Raymond discloses wherein the digital image of the server payload possesses files not included in the server payload as initially installed (refer to Col 1, 3, and 4).

7. Referring to Claim 26, Raymond discloses: responding to a boot signal by broadcasting the request to restore the server payload (refer to Col 10 ).

8. Referring to Claim 27, Raymond discloses wherein the boot signal is generated remotely (refer to Col 10).

9. Referring to Claim 28, Raymond discloses wherein the request to restore the server payload is encoded in a secure protocol encoding, (encoding, type of protocol, refer to Col 9, and 10).

10. Referring to Claim 29, Raymond discloses wherein the digital image of the server payload is encoded in a secure protocol (encoding, type of protocol, refer to Col 9, and 10).

11. Referring to Claim 30, Raymond discloses wherein the digital image of the server payload possesses files not included in the server payload as initially installed (refer to Col 1, 3, and 4).

12. Referring to Claim 31, Raymond discloses receiving the request to restore the server payload in a second Server (refer to Examiner interprets the second computer as the second sever, refer to Col 6 and Col 9).

13. Referring to Claim 32, Raymond discloses responding to the request to restore the server payload by a second Server (refer to Col 9, 10, and 11).

14. Referring to Claim 33, Raymond discloses wherein responding to the request to restore the server payload comprises transmitting the digital image (refer to Col 9, 10, 11).

15. Referring to Claim 34, Raymond discloses storing two or more digital images of the server payload in a partitioned memory in a second (refer to Col 14).

16. Referring to Claim 35, Raymond discloses producing the digital image on one or more portable computer readable media (refer to Col 1).

### ***Response to Arguments***

Applicant's arguments filed 8/19/2005 have been fully considered but they are not persuasive.

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1) In the remark, the applicant argued that 1) Raymond fails to teach "broadcasting on the computer communication network a request to restore a server payload" 2) fails to detecting a need for restoration of a server payload.

2) Examiner respectfully traverse the argument: 1) Raymond teaches broadcasting on the computer communication network a request to restore a server payload (it is inherent that the downloading computer must detecting the need to restore the payload/data, thus to start requesting via network is a form of broadcasting, refer to Col 9, Col 10 and 12). 2) Raymond teaches broadcasting on the computer communication network a request to restore a server payload (it is inherent that the downloading computer must detecting the need to restore the payload/data, thus to start requesting via network is a form of broadcasting, refer to Col 9, Col 10 and 12)

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this Office action is set to expire **THREE MONTHS** from the mailing date of this action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KT

  
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SENIOR PATENT EXAMINER  
TECHNOLOGY CENTER 2100